

**Town of Bayfield**  
**Regular Town Board Meeting**  
**March 2, 2010**  
**1199 US Highway 160B Bayfield, CO 81122**

**Town Board Members Present:** Rick Smith (Mayor), Tom Au (Mayor Pro-Tem), Dan Ford, Justin Talbot, Brandon Luter, Debbi Renfro, Gabe Candelaria

**Staff Present:** Justin Clifton (Town Manager) Dirk Nelson (Town Attorney), Marianne Jones (Town Clerk), Dot Caton (Finance Director)

**Media Present:** Patrick Young (Durango Herald) & Carole McWilliams (Pine River Times)

The meeting was called to order @ 7:01 p.m.

Rick introduced Dot Caton, the new finance director for the Town.

**Minutes:** Justin Talbot moved to approve the minutes from the January 25<sup>th</sup> Confidential Special Town Board Meeting as submitted. Brandon seconded the motion. All were in favor, motion passed unanimously.

**Pubic Comment:** Phyllis Ludwig (9205 CR 521) stated that she was representing the Bayfield Site Committee of the Senior Center. The committee has some concerns and questions about the Senior Center. The committee wants to know how much of a partnership they have with the Town and how much say they have concerning what happens at the Senior Center. The committee requests some more independence. They feel that some of their questions are not being answered quickly enough and they feel that there are some items that they should just be able to do without asking for permission of the Parks & Recreation department. Also, they would like their head volunteer to be given a key to the Senior Center.

Dan Dvojak (632 San Moritz) President of the Senior Center Site Committee commented that it takes a long time to get answers to questions.

Justin Clifton responded that he attended one of the Site Committee meetings in February to answer some questions. He stated that he is working with the Parks & Recreation staff to try and speed the process up in getting the needed answers in a timelier manner. The Town tries to have appropriate management practices in place for all of its facilities, including regulations for access, uses, functions, etc of each of the facilities. Justin Clifton stated that he will be participating in the Site Committee meetings on a regular basis so that he can help bring his insight into these meetings. He explained that sometimes the government procedures do move slowly but the staff will work to make things more expedient. He stated that he wants to respect the process. Things should be presented to Tracy, the Senior Center Coordinator first, then to the Parks & Recreation staff, then to Justin Clifton, and finally to the Board. Justin Clifton hopes to get involved in this and see if things can be worked out between the staff and the Site Committee.

Rick asked that Justin Clifton work with the Seniors and the Parks & Recreation staff to come up with an agreement that everyone is happy with.

Justin Clifton stated that he would like to figure out what items can be resolved immediately and then start addressing some of the bigger issues.

Tom stated that he would like to see the Seniors get a little more freedom with their building. He doesn't feel that they are even being allowed to use their building in the capacity it was meant and they should be allowed access to it.

Justin Clifton responded that if the Board wishes to talk about allowing that sort of access to the building, he would like to be able to bring back information to the Board regarding liability & insurance.

Barb Luebchow (146 County Road 501) asked about how the \$20,000.00 that was received from BP Amoco will be distributed.

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Justin Clifton answered that the money is earmarked & dedicated for Senior Citizens to be used in any number of ways. Justin Clifton informed the Parks & Recreation staffs that they should attempt to oblige some of the recent requests that have been received from the seniors, such as an ice-maker or a PA system. However, Justin Clifton feels that the Town still needs to be cautious. There is grant money budgeted for the operations of the center that have not come in yet. Justin Clifton stated that he would hate to spend the BP money and then not receive a grant that was originally budgeted and have a deficit in the fund. He also feels that it might be a good idea to put that money into the bank and allow it to accrue interest for a couple of years. During the budget process for 2010, eliminating the Senior Center Coordinator position was discussed. He feels that it would be a bad decision to spend this generous donation and then have to eliminate a staff position in 2011 because the money was used on other things. He stated that this was a very generous & unexpected donation from BP and the Town does not have a plan in place yet for the money but it will be figured out and a decision will be made collectively with input from the Seniors, the staff, and the Board.

Rick asked that Justin Clifton help create a process so that the Seniors are involved in the financing of the Senior Center. He thinks that it will help to get them more involved and allow them to have more of a say so in the programs that are offered at the Center.

Phyllis commented that the Parks & Recreation department has done a very good job with the Senior Center programs. She stated that it's just the simple things that need to be done more expediently. The Senior Center really needs an ice maker.

Justin Clifton stated that he would like to gather all of the information regarding finances & access and have it scheduled as an agenda item before the Board makes any decisions on these items.

David Black (606 Buck Highway) asked the Board to consider a property tax mill levy for the Town. He stated that he has been looking at the Town budget and it is totally dependant on grants and sales tax from the City and County. He feels that there will be a significant cut in property tax collections and that is going to seriously affect the budget for 2011. He also stated concern that 97% of the wages for the Public Works department is being transferred from the enterprise funds instead of taking a portion out of the General Fund for these wages. He feels that this is irresponsible. He stated that he did not feel that the Town should have hired a new Finance Director and that the responsibilities should have been left with the two individuals that were doing that job previously.

**Action Agenda: Approval of the Bills**

Tom made a motion to approve the bills dated February 26<sup>th</sup>, 2010 as submitted. Gabe seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda #2: Town Updates**

Debbi asked for more information about the medical marijuana dispensary focus group.

Justin Clifton answered that he has a few representatives that have agreed to attend these meetings. The School District has agreed to send a representative and Justin Clifton is currently looking for someone from the medical community (traditional medicine) to also attend the meetings. He also mentioned that if there are Board members that would like to participate, they are more than welcome. The meeting will be held on Monday, March 8<sup>th</sup>, 2010.

Debbi asked if Justin Clifton had any information from the land-owners regarding the Highway 160 Traffic Study.

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Justin Clifton answered that the area landowners had some concern about the high traffic volumes generated in the study. The consultants made some adjustments to the floor area ratios and were able to reduce the traffic volumes by 50%. The report was not submitted in time to be sent out to the Board in the packets but Justin Clifton stated that he will send it out to the Board for them to review. This revised report has been sent out to the landowners and will be used in the report to CDOT.

Gabe asked about the Gem Village Change Orders.

Justin Clifton stated that he will send Change Orders one through nine in the packet for the next Board meeting.

**Action Agenda Item #3: 4<sup>th</sup> of July Discussion**

Justin Clifton gave his staff report. He stated that the Board's decision to hold the 4<sup>th</sup> of July events on Sunday has caused considerable concern in the community. This concern is voiced most strongly from the two churches on Mill Street. However, the rest of the church community is equally concerned about their congregations being put in a position to choose between church services and 4<sup>th</sup> of July festivities. The churches also participate in the event, which means they would need to back out if the event is held on Sunday. He expressed that he wanted to put this item on the agenda so that the Board could have a chance to hear from the public on this item. He also mentioned that the Parks & Recreation staff recommends moving the event from Sunday July 4<sup>th</sup> to Saturday July 3<sup>rd</sup>.

The item was opened for public input.

Joe Mozgai (402 Dove Ranch Road) stated that the Lions Club would really like to see the event moved to Saturday or Monday.

Bryan Caselles (Pastor of Calvary Presbyterian Church) stated that this is not just a concern of the churches that are on Mill Street, the greater Christian community is impacted by this decision to keep the festivities on Sunday.

Jerry Brown (443 Schroeder Drive) stated that the 4<sup>th</sup> of July festivities have been moved to Saturday in the past and it has never caused any problems. He feels that there is no reason not to move the event from Sunday to Saturday.

Ken Schrader (158 Pine Tree Drive) offered his support for moving the event to Saturday.

Joe Mozgai asked if there was a way to write up a policy that would dictate to future Boards to automatically move the festivities to Saturday when the 4<sup>th</sup> of July falls on Sunday.

Public input was closed.

Justin Clifton stated that the Parks & Recreation staff needs a decision on this matter immediately because planning items have to be done for the event.

Dan stated that he feels very foolish to have made the decision to leave the festivities on Sunday without taking all of these items into consideration. He expressed that he is in favor of moving the event to Saturday.

Debbi stated that it might be a good idea to put a policy in place to alleviate this problem from happening again in the future.

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Rick commented that this is the way that government is supposed to work. The Board made a decision and the people are flexing their right to come in & express how they are being affected by that decision and asking the Board to reconsider. He expressed that he is pleased to see residents coming in and explaining their opinions so that the Board is given all of the facts. He stated that he is also happy with how the Parks & Recreation department has researched this item and given the Board the information they need to make the right decision.

Gabe made a motion to follow staff recommendations & move all of the 4<sup>th</sup> of July celebration festivities to the 3<sup>rd</sup> of July, including the fireworks. Debbi seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #4: Public Hearing: Ordinance #351 – Adoption of Appendix B Of The International Fire Code**

Justin Clifton gave his staff report. He stated that this item was discussed at the last meeting but there was some language changes requested by Rich Graeber, the Fire Chief. These changes have been incorporated into the Ordinance and the Ordinance is now being presented for final approval.

Rick clarified that Ordinance #351 is an Ordinance to officially adopt Appendix B of the International Fire Code which sets Fire Flow requirements.

The item was opened for public input.

Phyllis Ludwig commented that she knows the Town has worked very closely with the Fire Chief on this item and that the decision should be left in the hands of the Board.

Carol Blatnick (323 Pearl Street) asked if the Town has the ability to meet all of the requirements stated in Appendix B.

Rick answered that the Appendix sets the fire flow at a certain rate. In the areas of Town that do not meet that fire flow, there will be other forms of mitigation that can be applied in order to meet the requirements. Adoption of this Ordinance will give flexibility to the Fire Chief & the Town to help enforce safer requirements in buildings where fire flow cannot be met.

Debbi stated that the use of the buildings also adds to the fire flow factors as well.

Joe Mozgai stated that he read a newspaper article that states that there have been more fires reported recently due to the growing of marijuana for the medical marijuana dispensaries. These fires have been caused by an overload to the house circuits.

Public input was closed.

Tom asked if the Fire Chief has looked at the revised Ordinance.

Justin Clifton answered that the Fire Chief did review the Ordinance and he is pleased with the final version.

Tom made a motion to adopt Ordinance #351 amending Section 4-18 of the Town Code relating to fire flow requirements in the International Fire Code. Gabe seconded the motion.

Dan asked what the third paragraph of the Ordinance that states "Whereas, the lack of precise standard for fire flows has lead to issues about the application of fire flow standards within the Town by the Fire Chief action as the Town's Fire Code Official" is referencing.

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Dirk answered that the Town did not have precise standards before this and the adoption of this appendix will address that issue and help move towards precision in this matter.

All were in favor, motion passed unanimously.

**Action Agenda Item #5: Public Hearing: Ordinance #353 – Appeals Board (Fire Code)**

Justin Clifton gave his staff report. He stated that Ordinance #351 appointed the Town Board as a review board for alternative plans to meet fire flow. If an applicant disagrees with the Fire Chief's decision of accepting or denying plans as submitted, the Town Board will sit as a review board to make a decision on the matter. Ordinance #353 is an Ordinance creating an appeals board which will strictly deal with the interpretation of the Fire Code. This board will consist of experts on this type of issue. Justin Clifton stated that he hopes that the Town will never need to create this board of experts but wants this Ordinance to be in place in case the need should ever arise.

The item was opened for public input.

David Black asked if the Town is going to hire or put out a request for individuals to sit on this board or will it be put into place in the event that the need arises.

Rick answered that the board will be convened when it is needed.

David asked if not having the board established would cause a delay for the applicants.

Justin Clifton answered the Town has the option to recruit some of the members that are already serving on the County Appeals Board. This will give the Town a list of people who are already serving in this capacity and will allow the board to be created in a timely fashion.

Rick stated that he does not think it will be a problem to convene an appellate board quickly if needed.

David asked if the time frame would be approximately 30 days to create the appeals board.

Rick answered that he thinks the Town could easily create the board within 30 days.

Public input was closed.

Dan commented that he was on the committee that came up with these recommendations. Appendix B addresses the ability to provide enough water to fight a fire. Currently, Mill Street doesn't have that capacity and the only way to resolve that issue would be to redo the infrastructure on Mill Street to address the fire flow. Unfortunately, the Town does not have the funds to undertake that project right now and so it would be impossible to allow any new building on Mill Street if there was no other option available for fire mitigation. He feels that this adoption is necessary for the safety of the citizens but the Board still wants the ability to make some adjustments and make some exceptions when they come up.

Dan made a motion to approve Ordinance #353 amending section 108 of the International Fire Code and amending Resolution #207 regarding a Board of Appeals under the provisions of the International Fire Code. Tom seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #6: RHA Discussion**

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Justin Clifton gave his staff report. He stated that he had recently submitted annual reports from the RHA (Regional Housing Alliance) to the Board. The Board asked that Jenn Lopez, the RHA Executive Director to come in and discuss affordable housing issues and RHA programs with the Board & answer questions.

The floor was given to Jenn Lopez, Executive Director for the RHA.

Jenn stated that 2009 was a great year for the RHA. She said that they have a really good Board of Directors serving the RHA. Justin Clifton served as the Chair in 2009 and Debbi Renfro also serves on the Board. The RHA was created in 2004 to be a government that services local government with affordable housing solutions. There are 5 programs that are run through this group. The RHA tries to create 80-100 opportunities per year for affordable housing. They don't actually build homes but they do mortgage assistance, facilitate rental developments & other ways of helping people with affordable housing.

The first program is the Fair Share Wishes program. Bayfield does not currently have this program. However, they hope to get several hundred units promised through this project and a percentage has to be set aside for below market housing. This is called affordable/attainable housing. In 2009, there were 103 units that were negotiated and will be built over a period of 15 years.

The second program is the La Plata Homes Fund. It is a separate non-profit organization that was set up so that it could take advantage of a federal program called Community Development Financial Institution Program. It is a way for the RHA to be recognized as a community bank and to get funding. In 2008, the program was capitalized in its loan program with a million dollar contribution from BP America. They were able to use those funds to go to the federal government and get a dollar match. They also received half a million dollars from Energy Impact Grants in 2009. They have 2.5 million dollars in requests outstanding currently and are hoping to get a big portion of those funds. There were 12 loans issued in the Bayfield/Forest Lakes area in 2009 for a total of \$360,000.00 in investments.

The type of assistance offered is a second mortgage. It is a shared appreciation model so there is no payment on the second mortgage until the family is ready to sell or refinance. When that occurs, the RHA is paid back and they receive the amount of the 2<sup>nd</sup> mortgage plus a percentage of the appreciation.

The third program is called Design & Development. For two years, the RHA had an architecture student that helped improve design work associated with affordable housing. The student designed approximately 35 homes. The fellowship for this program has been transferred to Colorado Housing, Inc and they are trying to sell 4 homes this spring.

The fourth program is a program that tries to acquire below market land through other governments. They are currently trying to acquire 3.88 acres on 32<sup>nd</sup> Street in Durango from BLM (Bureau of Land Management) that is currently considered unutilized. They are attempting to acquire this parcel with the assistance of the City of Durango. Durango is going to use the parcel for storm-water drainage and the RHA hopes to use it for a special needs rental project.

The fifth RHA program is the Home Grown Homebuyers Services Program which is a financial literacy program for potential new homeowners. The RHA offers a free 9 hour class every month. This program is intended to help reduce the foreclosure rates because the homeowners will be more prepared and understand their responsibilities. In 2009, the RHA trained 132 families through the program. 19 of those families determined that they could purchase a home without the assistance of the RHA. They also provide one-on-one financial counseling for new potential homeowners with a client service advisor.

The RHA is also doing some national lobbying to help rural areas such as Bayfield that cannot get federal money into their communities.

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Tom asked how the Fox Farm subdivision is doing.

Jenn answered that 6 homes are being built in 2010. Approximately 20 units have been built in the subdivision so far. She stated that there are a couple of issues in Fox Farm. They do a lot of referrals to Fox Farm but there is too much of the same product at the same price-point and the demand is not quite as high. Unfortunately, some of the demand got absorbed into Durango because some of the prices dropped enough in Durango to make it affordable. They are working to get the down payments a little bit lower in Fox Farm to make it more feasible to get families into those homes.

Rick requested that they continue to work on getting more families into the Fox Farm Subdivision.

Jenn stated that the deed restrictions in that subdivision also makes things difficult. She said that she might be coming back in front of the Board to discuss those restrictions.

Gabe asked what the bottom line is for attainable/affordable.

Jenn answered affordable is for families that meet the criteria of 80% of their immediate income. Affordable refers to income versus the amount spent every month on housing. The standard rule is that families should not be spending more than 30-34% on housing each month. The RHA has precise formulas that they use to determine affordable housing. Attainable housing is for those families who make more than 80% but still cannot afford to live in this area.

Debbi asked if the local economy would be stimulated if the 2.5 million would have been received, i.e. using local builders, buying materials locally, etc.

Jenn answered that some of the money would have been used to do mortgage assistance. They also planned to use some of the money to acquire 60 lots. An RFP (Request for Proposals) process would have been sent out in search of distressed properties or reached out to some of the banks looking for some similar type properties. When RFP's have been sent out in the past the RHA has put in a statement that there is a preference for green building & local builders. The process would be similar to that in future RFP processes.

**Action Agenda Item #7: NTIA Letter of Support**

Justin Clifton gave his staff report. He stated that an entity called Southwest Colorado Broadband (SWCBB) is interested in putting together an NTIA grant to further extend fiber throughout Southwest Colorado. Members of the consulting team that helped secure the \$3 million SB 232 grant are involved. This grant is one that the SWCOG looked at but decided was not feasible based on cash match requirements and the grant already secured to extend fiber. Justin Clifton explained that this grant is not redundant to the one awarded to the SWCOG but could be complementary. Southwest Colorado Broadband is requesting support for the Town of Bayfield in their effort to apply for these funds. He explained that this would not be a commitment to use this organization, it is just a letter of support for this entity to request the grant funding.

Rick clarified that Southwest Colorado Broadband is interested in being a fiber provider in Bayfield. They want to lay the fiber infrastructure and be a provider to Bayfield residents. They do not plan to do anything that will duplicate what is already being done through Senate Bill 232. This organization is looking for local communities to give a letter supporting their efforts to get federal funding for this endeavor.

Dan asked if there is a guarantee that the money would be used in Bayfield.

Rick answered that their business plan is to come into Bayfield, Pagosa Springs and other smaller communities where there is a need for this type of service.

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Justin Talbot asked if some of this money is stimulus money.

Rick answered that he doesn't know for sure if it is stimulus money or not. He explained that the NTIA grant funding system has been around for a long time.

Ed Morlan clarified that some stimulus money was put into this fund.

Rick stated that this company wants to compete with Fastrack. They hope to offer services to the independent households and they hope to be able to provide that service at a cheaper rate than Fastrack. Currently, Fastrack and Qwest are the only providers in this area and Qwest does not want to get involved with the fiber aspect. That leaves Fastrack with the monopoly on fiber service if no other providers decide to come into the Bayfield area. If this company received the grant funding, it will give Bayfield residents more than one provider and it will hopefully keep the rates more competitive.

Debbi asked if this company is being given an edge that other companies don't have if they do receive grant funds.

Rick answered that Fastrack already has a lot of infrastructure in place so their need for further funding will be small. This other company is not going to have access to the Fastrack infrastructure so their start-up costs are going to be higher. Fastrack only has to install one mile of infrastructure to complete their service to Bayfield. This other company will have to go a much longer distance to bring service into Bayfield. They need funds to do that and these grants will help provide those funds. Rick stated that Bayfield needs competition in order to get the residents the best rates. However, this letter of support is not committing the Town to anything. The Town is not stating that they will purchase services for them or anything else. It is just a letter of support stating that the Town supports their effort to apply for the funds.

Debbi asked if other entities can apply for these grant funds as well.

Rick answered that they can.

Tom asked if the Town is helping one company to get funding more than another one. He feels that the Town should not be getting involved and helping one company to overstep another company.

Rick answered that competition is healthy and Bayfield has been hurt by the fact that there has not been any competition available. He feels that the more providers that are available, the better the rates that will be available to Bayfield residents. He expressed that he realizes that it's going to be hard for these smaller companies to compete with Fastrack but he doesn't think that the Town should deny them the opportunity to try.

Justin Talbot expressed that he doesn't want to support a company that is requesting stimulus money and making the economic deficit even larger. The Town already has this service available and he doesn't feel that stimulus money should be used to add to that service just to add competition.

Gabe stated that the grant funds are going to be used somewhere in America regardless of whether or not it is spent in Bayfield.

Justin Talbot expressed that he feels he needs to take a stand and state that he's not willing to take those funds.

Rick responded that he respects Justin Talbot's point of view on this matter but he feels that the Town needs to do whatever can be done to help Bayfield residents and business to thrive.

Tom commented that as long as stimulus money is being accepted the worse the problem is becoming. He feels that this sort of endeavor is not helping businesses or the community.

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Dan expressed that he doesn't feel that the Town should support strangers. He feels that if the Town is going to put their support behind a particular company than they should know more about them. He doesn't feel that the Town knows enough about this business to sign a letter of support. He thinks that this is a very good cause and it would provide jobs for local residents but he doesn't think that the Town should support an unknown company.

Dan made a motion that the Town Board not submit a letter of support for Southwest Colorado Broadband. Tom seconded.

Gabe requested that the Town write a polite reply to Southwest Colorado Broadband outlining the reasons why a letter of support was not given for their endeavor.

All were in favor except Rick & Gabe who were opposed. Motioned carried 5-2.

**Action Agenda Item #8: Liquor License Renewal – Bayfield Liquor**

Gabe made a motion to approve the liquor license renewal for Bayfield Liquor. Brandon seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #9: Liquor License Renewal – The Grocery Store**

Gabe made a motion approve the liquor license renewal for the Grocery Store. Tom seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #10: Town Manager Evaluation**

Justin Clifton explained that it is time for his annual evaluation. He said that he would like to complete the evaluation prior to any changes to the Board seats in order to ensure consistency from direction given from the Board as part of the previous year's evaluation.

He asked the Board for input on the process and a timeline. He explained that the process would involve examination of last year's evaluation, a self evaluation, an evaluation from all Department Heads and other key personnel, and an evaluation from each Board member.

He proposed to submit last year's evaluation, his self evaluation and evaluations from Department Heads before the next meeting. At the next meeting Board members could review these materials and discuss things collectively before completing their own individual evaluations. The individual evaluations would be turned in to the Mayor with enough time for him to compile results prior to the April 6<sup>th</sup> meeting. At the April 6<sup>th</sup> meeting, the Board could have any final discussion before presenting the evaluation to Justin Clifton.

It was decided to hold an executive session on Monday March 22<sup>nd</sup> from 6:00 – 8:00 p.m. to discuss Justin Clifton's evaluation.

**Action Agenda Item #11: New/Unfinished Business**

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Dan commented on the report that was submitted by Marshal Choate regarding Deputy Lawson and the Town's K-9 unit's effort that led to the conviction of a culprit. He wanted it noted that the Board appreciates the efforts put forth by Deputy Lawson and the Marshals office for all that they do for the Town.

Gabe asked about converting water rights that are currently in irrigation status into municipal use.

Dirk answered that he is working directly with the water engineer to get this completed. It is very high on the priority list and he hopes to have it completed in a month or two.

Gabe asked if the Town is looking for equipment to help with the maintenance of Highway 160B once it is received from CDOT.

Justin Clifton answered that the Town is having conversations in anticipation of taking over Highway 160B. Discussions are being held regarding road improvements, bridge improvements, and internal maintenance. He explained that there are a lot of things to be discussed regarding the take-over of this road.

Gabe expressed that the Town is adding more lane miles and the Town needs to make sure that all of the roads are being reported correctly. The Town also needs to figure out how much equipment and crew time is needed to maintain those roads.

Tom stated that he will not be at the next meeting because of the caucus.

Debbi requested that Justin Clifton bring an update back to the Board regarding the Senior Center Site Committee meeting.

Brandon asked that the liability issues regarding access to the Senior Center building be explained at the next meeting as well.

Justin Clifton stated that he will bring those things to the Board to discuss if a consensus cannot be reached at the site committee meeting.

Rick welcomed Dot again and thanked her for attending the meeting.

The meeting was adjourned @ 8:56 p.m.

Minutes were approved as submitted on April 6<sup>th</sup>, 2010

**Approved:**

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Rick K. Smith  
Mayor

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Marianne Jones  
Town Clerk